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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/658,674
Filing Date: September 09, 2003
Appellant(s): CHUAH ET AL.

Eamon J. Wall
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/20/2010 appealing from the Office action mailed 6/16/2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-7.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

6,574,208	Matturi et al.	6-2003
7,295,524	Gray et al.	11-2007

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matturi et al. (US 6,574,208; hereinafter Matturi) in view of Gray et al. (US 7295524)

Regarding claim 1, Matturi discloses a method for registering at least one wireless access point in a wireless area network (WAN), comprising:

broadcasting from a WAN gateway, a discovery message towards said at least one wireless access point in said network WAN (base station controller, which acts a WAN gateway to the network, and the network element find and identify each other – Figure 5 – Abstract; Column 4, Lines 45-59; Column 6, Lines 37-67; furthermore, the BSC receives identification information and hardware information from the base station to register the base station to the network for operation: Col 7, lines 35-43);

Matturi discloses all the particulars of the claim but is unclear about the limitations of

receiving at said WAN gateway, from at least one wireless access point receiving said discovery message, an wireless access point registration request comprising access point location, IP address, MAC address, radio type, and power level information of said wireless access point; and

storing said wireless access point registration request information at said WLAN gateway.

However, Gray does disclose the limitations of receiving at said WAN gateway, from at least one wireless access point receiving said discovery message, an wireless access point registration request comprising access point location, IP address, MAC address, radio type, and power level information of said wireless access point (Col 5, Section II. Operation; lines 60 – 67; Col 7, lines 30-53: the management platform which is equivalent to the WAN gateway discovers and registers wireless access points and storing their information such as point location, IP address, MAC address, radio type, and power level information; access point location (the positional parameters of the AP in Latitude and Longitude: Col 6, lines 46-47), radio type (the use of 802.11 technology: Col 5, lines 17-21, which the packet can specifies a specific channel: Col 6, line 46, Fig. 1, Fig.3 showing channel 11), or power level information (Fig. 7B, element 7: power management)); and

storing said wireless access point registration request information at said WLAN gateway (store the information in the master table: Col 6, lines 30-53).

Matturi and Gray are analogous art for they both are wireless systems trying to establish connections within its network. Therefore, it would have been obvious to one ordinarily skilled in the art at the time of invention to incorporate Gray's capability of receiving and storing access points information during registration of wireless access points to Matturi's base station controller to collect information of available access points/base stations to allow network administrators to optimize the configuration of the wireless network environment for performance and security (Gray: Col 3, lines 27-30).

Regarding claim 2, as applied to claim 1 above, Matturi discloses that each wireless access point selects a random delay prior to sending said wireless access point registration request to said broadcasting WLAN gateway (read as each wireless access point communicates on a different time slot to prevent collision and each has a unique delay: Col 7, lines 22-48).

Regarding claim 3, Matturi discloses a method for registering a wireless access point in wireless area network (WAN), comprising:

broadcasting a gateway discovery query message from said wireless access point (wireless access point seeks out the base station controller acting as the WLAN gateway – Figure 6 – Column 6, Lines 63-67 and Column 7, Lines 1-6);

receiving from said at least one WAN gateway, a respective service discovery message (base station controller, which acts a WLAN gateway to the network, and the

network element find and identify each other – Figure 5 – Abstract; Column 4, Lines 45-59; Column 6, Lines 37-67);

selecting by said wireless access point, an appropriate WAN gateway in an instance where more than one service discovery message is received; and sending an wireless access point registration response comprising wireless access point information to said selected WLAN gateway (WLAN gateway is selected and identification information about the wireless access point is communicated – Column 5, Lines 9-17; Column 7, Lines 21-48);

Matturi discloses all the particulars of the claim, but is unclear about the limitation of sending an access point registration request comprising access point location, IP address, MAC address, radio type, and power level information of said wireless access point to wards said selected WAN gateway.

However, Gray does disclose sending an access point registration request comprising access point location, IP address, MAC address, radio type, and power level information of said wireless access point to said selected WAN gateway (Col 5, Section II. Operation; lines 60 – 67; Col 7, lines 30-53: the management platform which is equivalent to the WAN gateway discovers and registers wireless access points and inherently receiving from access point and storing information such as point location, IP address, MAC address, radio type, and power level information; access point location (the positional parameters of the AP in Latitude and Longitude: Col 6, lines 46-47), radio type (the use of 802.11 technology: Col 5, lines 17-21, which the packet can specifies a

specific channel: Col 6, line 46, Fig. 1, Fig.3 showing channel 11), or power level information (Fig. 7B, element 7: power management)).

Matturi and Gray are analogous art for they both are wireless systems trying to establish connections within its network. Therefore, it would have been obvious to one ordinarily skilled in the art at the time of invention to incorporate Gray's capability of receiving and storing access points information during registration of wireless access points to Matturi's base station controller to collect information of available access points/base stations to allow network administrators to optimize the configuration of the wireless network environment for performance and security (Gray: Col 3, lines 27-30).

Regarding claim 4, as applied to claim 3 above, Matturi discloses that said selecting further comprises:

determining if said wireless access point is currently registered and sending said service discovery message to said wireless access point (Figure 5 – Abstract; Column 4, Lines 45-59; Column 6, Lines 37-67).

Regarding claim 5, Matturi discloses that said selecting comprises:

determining an appropriate WAN gateway using at least one of the following: a cost of using a WAN gateway, a load at a WAN gateway, and system features provided by a WAN gateway (a system feature is read as establishing wireless communication to be connected to a network by identifying one another by means of communication

control channel: Col 6, lines 63-66).

Regarding claim 6, Matturi discloses all the particulars of the claim but is unclear about the limitation of the method of claim 3, wherein said sending of an access point registration request further comprises sending security information in said access point registration request.

However, Gray does disclose the limitation of the method of claim 3, wherein said sending of an access point registration request further comprises sending security information in said access point registration request (security setting for an access point belonging to a group such as the Sales group: Col 7, lines 24-31; which was defined in the access point master table under group name: Col 6, lines 50-52).

Matturi and Gray are analogous art for they both are wireless systems trying to establish connections within its network. Therefore, it would have been obvious to one ordinarily skilled in the art at the time of invention to incorporate Gray's disclosure of security settings to provide users of the network improved security and privacy.

Regarding claim 7, Matturi discloses that said each wireless access point selects a random delay prior to sending said wireless access point registration request to said WLAN gateway (read as each wireless access point communicates on a different time slot to prevent collision: Col 7, lines 22-48).

(10) Response to Argument

I. Rejection of Claims 1 - 2 Under 35 U.S.C. 103(a)

A. The Examiner failed to establish a prima facie case of obviousness of Appellant's claim 1, because a combination of Matturi and Gray does not teach or suggest all of the elements of Appellants' independent' claim 1.

1. Matturi and Gray, alone or in combination, fail to teach or suggest a WAN gateway and, thus, fail to teach or suggest any of the limitations of Appellants" claim 1. (Appeal Brief Page 12/39)

In response, Examiner would like to note that the broadest interpretation of a WAN is a wireless area network, as suggested by Applicant; furthermore, the broadest interpretation of a cellular wireless network in the art is also known as a wireless area network. Therefore, the cellular wireless network does read on the claimed wireless area network. If applicant wants to refer to wireless area networks such as 802.11, then that needs clearly recited in the claim.

Examiner would like to assert that this point is moot, since the rejection does not rely on the reference of Matturi to fully disclose the limitations of receiving at a WAN gateway, from at least one wireless access point receiving a discovery message, an access point registration request including access point registration information.

However, Matturi does disclose the base station controller (read to be the gateway in the claim) receiving an acknowledgement message from the base station (read to be the access point in the claim) acknowledging the establishment message originally sent by the base station controller (Col 7, lines 7-36).

Furthermore, Gray does disclose the limitation of a WAN gateway, because the airspace management platform 56 does the same disclosed limitations of the WLAN gateway in the claim Col 5, Section II. Operation; lines 60 - 67; Col 7, lines 30-53: the management platform which is equivalent to the WAN gateway discovers and registers wireless access points and storing their information such as point location, IP address, MAC address, radio type, and power level information; access point location (the positional parameters of the AP in Latitude and Longitude: Col 6, lines 46-47), radio type (the use of 802.11 technology: Col 5, lines 17-21, which the packet can specifies a specific channel: Col 6, line 46, Fig. 1, Fig.3 showing channel 11), or power level information (Fig. 7B, element 7: power management)) .

2. Matturi and Gray, alone or in combination, fail to teach or suggest the limitation of “receiving at said WAN gateway, from at least one wireless access point receiving said discovery message, an access point registration request comprising access point location, IP address, MAC address, radio type, and power level information of said wireless access point, '" as claimed in Appellants" claim 1. (Appeal Brief Page13).

a. Matturi (Appeal Brief Page 13-15)

(response to Appellant arguments of part a)

Examiner would like to point out that the argued point is moot, because Matturi is not relied upon to reject the argued limitation of "receiving, at a WAN gateway from at least one wireless access point receiving a discovery message, an access point registration request including access point location, IP address, MAC address, radio type, and power level information of the wireless access point." Furthermore, the Gray reference is used to reject said limitation.

b. Gray (Appeal Brief Pages 15-19)

Firstly, Appellants submit that Gray fails to teach or suggest "receiving at said WAN gateway, from at least one wireless access point receiving said discovery message, an access point registration request," as claimed in Appellants' claim 1.

Second, Appellants submit that Gray fails to teach or suggest "receiving at said WAN gateway, from at least one wireless access point receiving said discovery message, an access point registration request comprising access point location, IP address, MAC address, radio type, and power level information of said wireless access point," as claimed in Appellants' claim 1. (Appeal Brief Page 16 – 19).

In response, due to the broadness of the claim language Gray does disclose the limitations of receiving at said WAN gateway, from at least one wireless access point receiving said discovery message, an wireless access point registration

request comprising access point location, IP address, MAC address, radio type, and power level information of said wireless access point (Col 5, Section I1. Operation; lines 60 - 67; Col 7, lines 30-53: the management platform which is equivalent to the WAN gateway discovers and registers wireless access points and storing their information such as point location, IP address, MAC address, radio type, and power level information; access point location (the positional parameters of the AP in Latitude and Longitude: Col 6, lines 46-47), radio type (the type of radio is interpreted as the use of the 802.11 radio type technology: Col 5, lines 17-21, which the packet can specifies a specific channel: Col 6, line 46, Fig. 1, Fig.3 showing channel 11), or power level information (Fig. 7B, element 7: power management is referring to the power level information: Col 12, lines 14-18).

B. The Examiner failed to establish a prima facie case of obviousness of Appellants' claim 1, because the Examiner failed to consider all of the words of Appellants' claim 1 in judging the patentability of Appellants ' claim 1. (Appeal Brief Page 19 -20)

In response, Examiner would like assert that Gray does disclose the limitations of receiving at said WAN gateway, from at least one wireless access point receiving said discovery message, an wireless access point registration request comprising access point location, IP address, MAC address, radio type, and power level information of said wireless access point (Col 5, Section II Operation; lines 60 - 67; Col 7, lines 30-53: the management platform 56 registers access points through discovering

the needed information which obvious entails the exchange of messages in the discovering process which is equivalent to the WAN gateway discovers and registers wireless access points and storing their information such as point location, IP address, MAC address, radio type, and power level information. Specifically the access point location (the positional parameters of the AP in Latitude and Longitude: Col 6, lines 46-47), radio type (the type of radio is interpreted as the use of the 802.11 radio type technology: Col 5, lines 17-21, which the packet can specifies a specific channel: Col 6, line 46, Fig. 1, Fig.3 showing channel 11), or power level information (Fig. 7B, element 7: power management is referring to the power level information: Col 12, lines 14-18).

Since Matturi is concerned with the connecting base stations, which are also known as access points, to the network through the exchange of identification information and then accepting the access points to the network (Matturri: Abstract; Col 7, lines 1-6, 22-43), and Gray is similarly concerned with the registration and management of Access Points (Gray: Col 5, Section II, A.), it would have been obvious to one ordinarily skilled in the art at the time of invention to incorporate Gray's disclosure of attaining, through discovery communication exchanges, information unique to the access point (Col 5, lines 60-66 and Col 6, lines 29-47) for registration and isolation of rouge access points (Gray: Abstract).

II. Rejection of Claims 3 - 7 Under 35 U.S.C. 103(a)

A. The Examiner failed to establish a prima facie case of obviousness of Appellant's claim 3, because a combination of Matturi and Gray does not teach or suggest all of the elements of Appellants' independent' claim 3.

1. Matturi and Gray, alone or in combination, fail to teach or suggest a WAN gateway and, thus, fail to teach or suggest any of the limitations of Appellants" claim 3. (Appeal Brief Page 12)

In response, Examiner would like to note that the broadest interpretation of a WAN is a wireless area network, as suggested by Applicant; furthermore, the broadest interpretation of a cellular wireless network in the art is also known as a wireless area network. Therefore, the cellular wireless network does read on the claimed wireless area network. If applicant wants to refer to wireless area networks such as 802.11, then that needs clearly recited in the claim.

Examiner would like to assert that this point is moot, since the rejection does not rely on the reference of Matturi to fully disclose the limitations of receiving at a WAN gateway, from at least one wireless access point receiving a discovery message, an access point registration request including access point registration information.

However, Matturi does disclose the base station controller (read to be the gateway in the claim) receiving an acknowledgement message from the base station (read to be the access point in the claim) acknowledging the establishment message originally sent by the base station controller (Col 7, lines 7-36).

Furthermore, Gray does disclose the limitation of a WAN gateway, because the airspace management platform 56 does the same disclosed limitations of the WLAN gateway in the claim Col 5, Section II. Operation; lines 60 - 67; Col 7, lines 30-53: the management platform which is equivalent to the WAN gateway discovers and registers wireless access points and storing their information such as point location, IP address, MAC address, radio type, and power level information; access point location (the positional parameters of the AP in Latitude and Longitude: Col 6, lines 46-47), radio type (the use of 802.11 technology: Col 5, lines 17-21, which the packet can specifies a specific channel: Col 6, line 46, Fig. 1, Fig.3 showing channel 11), or power level information (Fig. 7B, element 7: power management)) .

2. Matturi and Gray, alone or in combination, fail to teach or suggest the limitation of "selecting, by said wireless access point, an appropriate WAN gateway in an instance where more than one service discovery message is received" (Page 22-25).

Examiner would like to note that Applicant is reading more into the claim than what is actually claimed. Applicant suggests that "Matturi the base station only ever communicates with a single base station controller at a given time for purposes of establishing a connection with the base station controller. Thus, the base station of Matturi will not receive multiple connection request messages from multiple base station controllers and, therefore, there is no need for the base station to select between multiple base station controllers (cited above)." However, no where in the claim does it claim that the WAN gateway receives more than a single communication from the WAN

and the access point. The claim merely claims, "receiving from at least one WAN gateway, a respective service discovery message," not multiple service discovery messages from a plurality of access points, nor does it clearly disclose whether the more than one service discovery messaged received is from one access point or each from a different access point. Only one WAN/BSC is claimed not a plurality or multiple WANs/BSCs is claimed.

Therefore, in response to applicant's argument (Appeal Brief Page 24) that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a base station selects an appropriate base station controller in an instance where more than one service discovery message is received from more than one base station controller) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Furthermore, as shown in Fig. 1, there is a plurality of BTSes elements (Fig. 1104, 106, 108) that can also be sending discovery identification information and it would be part of the particular BTS to ignore information from other BTSes and only choose to receive data from the certain BSC for communication setup. And Matturi does disclose the plurality of BTSes (Fig. 1) and the BTS monitors and communicates over the specified time slot with the MSC (Col 7, lines 36-43, 48-56).

b. Gray (Appeal Brief Page 25)

The argument is moot because Gray was not used to disclose the limitation "selecting by said wireless access point, an appropriate WAN gateway in an instance where more than one service discovery message is received," as rejected in claim 3.

3. Matturi and Gray, alone or in combination, fail to teach or suggest the limitation of "sending an access point registration request comprising access point location, IP address, MAC address, radio type, and power level information of said wireless access point to said selected WAN gateway," (Appeal Brief Page26).

a. Matturi (Appeal Brief Page 26-29)

Examiner would like to point out that the argued point is moot, because Matturi is not relied upon to reject the argued limitation of "sending an access point registration request comprising access point location, IP address, MAC address, radio type, and power level information of said wireless access point to wards said selected WAN gateway." Furthermore, the Gray reference is used to reject said limitation.

b. Gray (Appeal Brief Pages 29-32)

Firstly, Appellants submit that Gray fails to teach or suggest "sending an access point registration request …to said selected WAN gateway," as claimed in Appellants' claim 3 (Appeal Brief Page 29).

Second, Appellants submit that Gray fails to teach or suggest "sending an access point registration request comprising access point location, IP address, MAC address, radio type, and power level information of said wireless access point towards said selected WAN gateway," as claimed in Appellants' claim 3 (Appeal Brief Page 29-39).

In response, due to the broadness of the claim language Gray does disclose the limitations of sending an access point registration request comprising access point location, IP address, MAC address, radio type, and power level information of said wireless access point towards said selected WAN gateway (Col 5, Section II. Operation; lines 60 - 67; Col 7, lines 30-53: the management platform which is equivalent to the WAN gateway discovers and registers wireless access points and storing their information such as point location, IP address, MAC address, radio type, and power level information; access point location (the positional parameters of the AP in Latitude and Longitude: Col 6, lines 46-47), radio type (the type of radio is interpreted as the use of the 802.11 radio type technology: Col 5, lines 17-21, which the packet can specifies a specific channel: Col 6, line 46, Fig. 1, Fig.3 showing channel 11), or power level information (Fig. 7B, element 7: power management is referring to the power level information: Col 12, lines 14-18).

B. The Examiner failed to establish a prima facie case of obviousness of Appellants' claim 3, because the Examiner failed to consider all of the words of

Appellants' claim 3 in judging the patentability of Appellants ' claim 3. (Appeal Brief Page 33-34)

In response, Examiner would like assert that Gray does disclose the limitations of sending an access point registration request comprising access point location, IP address, MAC address, radio type, and power level information of said wireless access point towards said selected WAN gateway (Col 5, Section II Operation; lines 60 - 67; Col 7, lines 30-53: the management platform 56 registers access points through discovering the needed information which obvious entails the exchange of messages in the discovering process which is equivalent to the WAN gateway discovers and registers wireless access points and storing their information such as point location, IP address, MAC address, radio type, and power level information. Specifically the access point location (the positional parameters of the AP in Latitude and Longitude: Col 6, lines 46-47), radio type (the type of radio is interpreted as the use of the 802.11 radio type technology: Col 5, lines 17-21, which the packet can specifies a specific channel: Col 6, line 46, Fig. 1, Fig.3 showing channel 11), or power level information (Fig. 7B, element 7: power management is referring to the power level information: Col 12, lines 14-18).

Since Matturi is concerned with the connecting base stations, which are also known as access points, to the network through the exchange of identification information and then accepting the access points to the network (Matturri: Abstract; Col 7, lines 1-6, 22-43), and Gray is similarly concerned with the registration and management of Access Points (Gray: Col 5, Section II, A.), it would have been obvious

to one ordinarily skilled in the art at the time of invention to incorporate Gray's disclosure of attaining, through discovery communication exchanges, information unique to the access point (Col 5, lines 60-66 and Col 6, lines 29-47) for registration and isolation of rouge access points (Gray: Abstract).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Chuck Huynh/

Examiner, Art Unit 2617

Conferees:

/Patrick N. Edouard/

Supervisory Patent Examiner, Art Unit 2617

/NICK CORSARO/

Supervisory Patent Examiner, Art Unit 2617